IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

THURSDAY, THE 5TH JULY 2007 / 14TH ASHADHA 1929

OP.No. 8974 of 2003(R)

PETITIONER:

THE SECRETARY,
QUILON DISTRICT MOTOR TRANSPORT WORKERS
CO-OPERATIVE SOCIETIES LTD. NO.Q 420, KOLLAM.

BY ADV. SRI.P.RAVINDRAN

RESPONDENTS:
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1. REGIONAL TRANSPORT AUTHORITY,
KOLLAM.

2. SECRETARY,
REGIONAL TRANSPORT AUTHORITY, KOLLAM.

BY GOVERNMENT PLEADER, SMT.SMITHA SUKUMARAN

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 05/07/2007, ALONG WITH WPC NO. 15065 OF 2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON CMP NO.15574 OF 2003 IN O.P.No. 8974 OF 2003

CLOSED

5.7.2007 SD/- THOTTATHIL B.RADHAKRISHNAN, JUDGE

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: COPY OF THE PERMIT NO.C1-33/85/Q.

EXT.P1(A): COPY OF THE ENDORSEMENT SHOWING THE LAST DATE OF THE RENEWALS.

EXT.P2: COPY OF THE PROCEEDINGS OF THE 1ST RESPONDENT DATED 25.1.2003.

EXT.P3: COPY OF THE TEMPORARY PERMIT VALID UPTO 16.11.2002.

EXT.P3(A): COPY OF THE TEMPORARY PERMIT VALID UPTO 16.3.2003.

EXT.P4: COPY OF THE REGISTRATION CERTIFICATE DATED 24-12-05

/TRUE COPY/

P.A. TO JUDGE

JP

THOTTATHIL B. RADHAKRISHNAN, J.

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O.P.8974 of 2003-R

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WP(C).15065 of 2006-R

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Dated this the 5th day of July, 2007.

JUDGMENT

These writ petitions are by the same person.

2. By Ext.P1 in O.P.8974/2003, the petitioner was issued a regular permit to operate a stage carriage. By Ext.P2, that was revoked since it was not availed. By Exts.P3 and P4, temporary permits were again granted to the petitioner. On C.M.P.15574/2003 filed seeking maintenance of status-quo by the issuance of temporary permit, this Court issued an order of stay on 18-3-2003. That order was modified directing that the temporary permit, as directed, need be issued, if the petitioner is

having a new vehicle. The petitioner was directed to submit whether he has procured the new vehicle before 31-3-2004, the outer limit fixed for replacement of the old vehicle. Though that order is on 8-12-2004, affidavit dated 1-3-2006 is placed on record stating that the petitioner applied for a temporary permit after obtaining a later model stage carriage and that was rejected by the Regional Transport Authority.

3. In the meanwhile, the 3rd respondent in WP(C). 15065/2006, who had been operating on the basis of a temporary permit, applied for grant of regular permit in the vacancy, owing to the revocation of the permit given to the petitioner in O.P.8974/2003, as noticed above. That grant was challenged by the petitioner before the State Transport Appellate Tribunal, which was dismissed.

4. In so far as the grant of permit in favour of the third respondent in WP(C).No.15065/2006 is concerned,

indisputably, that grant was made as against a vacancy that definitely existed by the revocation of the regular permit in favour of the petitioner. Following the interim order dated 8-12-2004 on C.M.P.No.15574/2003, the petitioner has not come on record to state that he had procured a new vehicle before 31-3-2004, which was the outer limit to replace his old vehicle. Therefore, the revocation of that permit also stands.

5. While the temporary permit application of the petitioner was considered on the production of a vehicle at a later point of time, the grant of regular permit to the third respondent in WP(C).No.15065/2006, obviously, disentitles the petitioner to seek a fresh permit in the same route. Therefore, no illegality, irregularity or unreasonableness can be attributed to the statutory authority giving preference to an applicant for regular permit as against the applicant for temporary permit. I may also notice that the rival operator, going by the decisions of this Court, is not

entitled to challenge grant of permit to a rival operator.

For the aforesaid reasons, these writ petitions fail. They are accordingly dismissed. No costs.

THOTTATHIL B. RADHAKRISHNAN,
JUDGE.

Sha/-

THOTTATHIL B. RADHAKRISHNAN, J.

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O.P.8974 of 2003-R

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WP(C).15065 of 2006-R

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JUDGMENT

Dated: 5th July, 2007.